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10/584,328	06/26/2006	Eric Vetillard	VETILLARD1	9651
1444	7590	02/06/2008	EXAMINER	
BROWDY AND NEIMARK, P.L.L.C.			POLLOCK, GREGORY A	
624 NINTH STREET, NW				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/584,328	VETILLARD, ERIC	
	Examiner	Art Unit	
	GREG POLLOCK	4182	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 26 June 2006.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-6 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-6 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 26 June 2006 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>06/26/2006</u> .	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

1. This action is responsive to the claims filed 06/26/2006.
2. Claims 1-6 have been examined.

Priority

3. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged and granted
4. If applicant desires to claim the benefit of a prior-filed application under 35 U.S.C. 365(c), a specific reference to the prior-filed application in compliance with 37 CFR 1.78(a) must be included in the first sentence(s) of the specification following the title or in an application data sheet. For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications.
If the instant application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35

U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the

petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

Information Disclosure Statement

5. The information disclosure statement filed 06/26/2006 has been received and placed on record in the file.

Abstract

6. The abstract is objected to because of the following minor informalities:
 - a. The use of a self-evident clause is not permitted. The first sentence of the Abstract reads "The invention relates to a method for enabling a new version of an application to be loaded onto a computer processing device.". The abstract should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," and in this case "The invention relates to". Correction is required. See MPEP § 608.01(b).
 - b. The use of a legal phraseology is not permitted. The use of the phrases "said method", line 3, and "said correspondence information", line 9 should be corrected to eliminate the of the legal phraseology which would normally be used in the claims. Correction is required. See MPEP § 608.01(b).

Claim Objections

7. The claims are objected to because of the following minor informalities:
 - a. Claims 1, lines 1-2 reads “Method for loading a new application release allowing to an earlier application release into a computer device” should be corrected to “Method for loading a new application release to an earlier application release into a computer device”.
 - b. Claim 1, lines 16-17 is objected to for the use of the pronoun “they” when referencing claim elements.
 - c. Claim 2 is objected to for being grammatically incorrect. The phrase “characterized in that” should be removed.
 - d. Claim 3, lines 2 is objected to for the use of the adjective “these” when referencing the claim element “object”.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
9. Claims 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1, line 3 recites the limitation “among

others ". The boundaries of this claim are unclear, since it is unknown what other code modification to code are permitted when loading the new application release.

10. Regarding claim 3, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
11. Claim 1, lines 7-9 recite the structural elements "the classes of said earlier application release "and "the classes of the new application release". There is insufficient antecedent basis for these structural element in these claims. For the purpose of compact prosecution, the office interprets this to mean that two new element are being introduced to the claims as "earlier application release classes" and "new application release classes".
12. Claim 1, lines 10-13 recite the structural elements "the static field identifiers of the earlier application release "and "the static field identifiers of the new application release". There is insufficient antecedent basis for these structural element in these claims. For the purpose of compact prosecution, the office interprets this to mean that two new element are being introduced to the claims as "earlier application release static field identifiers " and "new application release static field identifiers".
13. Claim 1 (lines 13 and 15), claim 2 (line 2) and claim 3 (line 1) recite the structural element "the matching information" or "said matching information". There is insufficient antecedent basis for this structural element in these claims. Further, it

is unclear whether the class (claim 1, line 8) or static field identified (claim 1, line 11) matching information is being referenced. For the purpose of compact prosecution, the office interprets the elements "the matching information" or "said matching information" to mean both the class matching information and the static field identifier matching information. Combining this rejection, the all other claim objections and 112 rejections, the following corrections to the claims are requested:

- a. Claim 1, lines 7-9 reads "computing, prior to that loading, a piece of information for matching the classes of said earlier application release to the classes of the new application release" should be corrected to "computing, prior to that loading, a class matching information for matching earlier application release classes to new application release classes".
- b. Claim 1, lines 7-9 reads "computing, prior to that loading, a piece of information for matching the static field identifiers of the earlier application release to the static field identifiers of the new application release" should be corrected to "computing, prior to that loading, a static field identifiers matching information for matching earlier application release static field identifiers to new application release static field identifiers".
- c. Claim 1, lines 13-15 reads "linking said matching information to the new application release as loaded into the computer device" should be corrected to "linking said class matching information and static field identifiers matching

information to the new application release as loaded into the computer device”.

d. Claim 1, lines 13-15 reads “using said matching information to modify the objects so that they point at the classes of the new application release and they use the new static field identifiers of the new application release.” should be corrected to “using said class matching information and static field identifiers matching information to modify the objects to point at the new application release classes and use the new application release static field identifiers.”.

e. Claim 2, reads “Method according to claim 1, characterized in that wherein said matching information are lookup tables.” should be corrected to “Method according to claim 1, wherein said class matching information and static field identifiers matching information are lookup tables.”.

f. Claim 3, reads “Method according to claim 1, wherein said matching information is omitted when these objects are not to be modified, for example, and in a non limiting way when no further class is added to the new application release or when the newly added classes do not change the class hierarchy.” should be corrected to “Method according to claim 1, wherein said class matching information and static field identifiers matching information is omitted and the objects are not to be modified when no further class is added to the new application release or when the newly added classes do not change the class hierarchy.”.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
15. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baentsch et al. 09/646720 (U.S. Application No. 09/646720) in view of Baentsch et al. 09/992984 (U.S. Application No. 09/992984).

As per claim 1, Baentsch et al. 09/646720 teaches a method for loading a new application release allowing to an earlier application release (a method for introducing new code [claim 3, line 1] into a computer device (JAVA card [column 1, lines 7-9] and [claim 6]) in a programming language (JAVA [column 1, lines 7-9]) using objects (packages [column 5, lines 35-42]) and permitting, among others, an introduction of additional classes, a class hierarchy modification and a definition of further fields and methods, (“The programmer can freely add private or static methods and classes” [column 3, lines 21-40]) said method comprising the steps of:

computing, prior to that loading, a piece of information for matching the classes of said earlier application release to the classes of the new application release; (the fixup table contains the position in the text section where a relocation has to take place [column 2, lines 59-60], where the text section contains class structures [column 2, lines 53-55])

computing, prior to that loading, a piece of information for matching the static field identifiers of the earlier application release to the static field identifiers of the new application release; (the fixup table contains the position in the data section where a relocation has to take place [column 2, lines 59-60], where the data section contains static fields [column 2, lines 53-55])

linking said matching information to the new application release as loaded into the computer device; (“There is one fixup table for every package the cardlet is linked to (i.e. the target package) [column 2, lines 57-58], and the link process is described [column 3, line 42 – column 4, line 10]”)

using said matching information to modify the objects (Figure 3, shows the symbolic binding of an applet against a target package [column 4, lines 21-22]) **so that they point at the classes of the new application release** ([column 4, lines 21-60]) **and they use the new static field identifiers of the new application release.** (Figure 3, shows the symbolic binding of an applet against a target package [column 4, lines 21-60])

Baentsch et al. 09/646720 does not teach **computing, prior to that loading.**

Baentsch et al. 09/992984 teaches a **computing, prior to that loading.** (JAVA card code development process [¶4-¶8])

It would be obvious to someone skilled in the art at the time of the invention to use the JAVA card code development process of Baentsch et al. 09/992984 as a development process for code to run on the JAVA card Baentsch et al. 09/646720 . Baentsch et al. 09/646720 states [column 1, lines 50-52] that “the person skilled in the art is assumed to be familiar with the basic mechanisms of the Java Virtual machine and its implementation”. Therefore, many of the method steps of the applicant claimed invention are not disclosed in Baentsch et al. 09/992984, as being well known in the art. However, in Baentsch et al. 09/646720, steps for updating a JAVA card are disclosed in full detail. One skilled in the art would be inclined to do so because it would provide a method which would allow the JAVA cards of Baentsch et al. 09/646720 reusable and, therefore, decrease replacement cost.

As per claim 2, the rejection of claim 1 has been addressed.

Baentsch et al. 09/646720 teaches a **method characterized in that wherein said matching information are lookup tables.** (the fixup table contains the position in the text section and data section where a relocation has to take place [column 2, lines 59-60], where the text section contains class structures [column 2, lines 53-55] and the data section contains data section contains static fields [column 2, lines 53-55])

As per claim 3, the rejection of claim 1 has been addressed.

Baentsch et al. 09/646720 teaches a **method wherein said matching information is omitted when these objects are not to be modified, for example, and in a non limiting way when no further class is added to the new application release or when the newly added classes do not change**

the class hierarchy. (the fixup table contains the position in the text section and data section where a relocation has to take place [column 2, lines 59-60]. If a relocation does not need to take place, it would not be contained in the fixup table.)

As per claim 4, the rejection of claim 1 has been addressed.
Baentsch et al. 09/646720 does not teach a **method comprising an implementation of procedures for updating application data after the new application release has been installed.**

Baentsch et al. 09/992984 teaches a **method comprising an implementation of procedures for updating application data after the new application release has been installed.** (installation program [¶8] running on a JAVA card [¶6])

It would be obvious to someone skilled in the art at the time of the invention to use an installation program as described in Baentsch et al. 09/992984 to updated the application code running on the JAVA card of Baentsch et al. 09/646720 . One skilled in the art would be inclined to do so to making the JAVA cards of Baentsch et al. 09/646720 reusable and, therefore, decrease replacement cost.

As per claim 5, the rejection of claim 1 has been addressed.
Baentsch et al. 09/646720 teaches a **method wherein said computer device is a chip card.** (JAVA card [column 1, lines 7-9] and [claim 6])

As per claim 6, the rejection of claim 1 has been addressed.
Baentsch et al. 09/646720 teaches a **method programming language is a "Java Card" language.** (JAVA [column 1, lines 7-9])

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
 - Cirne et al. (US Patent: 6260187) – teaches a system for modifying object oriented code which contains all of the steps of the applicants claim as applied to JAVA code on any target processor.

- Goire et al. (US Patent: 6983460) – teaches a method for loading applications into a JAVA card from a station on which the source code of the application is written, compiled, verified and converted.
- Andrew et al. (US Application: 10/035905) – teaches a method for loading applications into a JAVA card using a data processing system and method in which the data processing system may be configured for receiving computer code with transactions to be executed by the data processing system and examining sequentially the computer code being executed for a change in observable state, storing the data for the executed computer code that are part of the transactions, and responsive to detecting a change in observable state, committing a portion of the stored data.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pollock whose telephone number is 571 270-1465. The examiner can normally be reached on 7:30 AM - 6 PM, Mon-Thu Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thu Nguyen can be reached on 571 272-6967. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GAP

2/1/2008

/Gregory Pollock/
Examiner, Art Unit 4182

Gregory A. Pollock

/Thu Nguyen/
Supervisory Patent Examiner, Art Unit 4182